

AMENDED IN ASSEMBLY APRIL 8, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 962**

**Introduced by Assembly Member La Suer**

February 20, 2003

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An act to amend and renumber Section 305.5 of the Welfare and Institutions Code, relating to minors.

LEGISLATIVE COUNSEL'S DIGEST

AB 962, as amended, La Suer. Minors: temporary custody.

Existing law authorizes a peace officer to take into temporary custody a minor who is in a hospital if the release of the minor to a prospective adoptive parent poses an immediate danger to the minor's health or safety. However, existing law prohibits a peace officer from taking into custody, without a warrant, a newborn child who is in a hospital, who tested positive for illegal drugs or whose birth mother tested positive for illegal drugs, who is the subject of an adoption petition and an adoption placement agreement, and whose release to the prospective adoptive parents does not pose an immediate danger to him or her. Existing law requires the prospective adoptive parents or their representative to provide a copy of the filed petition for adoption and the signed adoption placement agreement to the local child protective services agency or to the peace officer who is at the hospital to take the minor into temporary custody.

This bill would ~~delete the provision described above authorizing a peace officer to take a minor who is in a hospital into temporary custody if the release of the minor to a prospective adoptive parent poses an immediate danger to the minor's health or safety. The bill would revise~~

~~the circumstances under which a peace officer is prohibited from taking a minor who is in a hospital into temporary custody, by deleting the requirements that the minor be the subject of a signed adoption placement agreement and that the release of the minor to a prospective adoptive parent or parents does not pose an immediate danger to the minor. The bill would also revise the provision described above requiring the prospective adoptive parents or their representative to provide a copy of the filed petition for adoption and the signed adoption placement agreement to the local child protective services agency or to the peace officer. The bill would instead require the prospective adoptive parents or their representative to provide the filed petition for adoption to the local child protective services agency within 10 calendar days of the release of the minor from the hospital into their custody, as a condition prohibiting a peace officer from taking a minor into temporary custody, without a warrant, when the minor is a newborn who tested positive for illegal drugs or whose birth mother tested positive for illegal drugs, add a requirement that the prospective adoptive parents or their representative provide a copy of a signed Health Facility Minor Release Form and a copy of an agency relinquishment signed by the placing birth parent or birth parents. In the latter circumstances, the bill would impose certain conditions on the prospective adoptive parents or their representative.~~

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 305.5 of the Welfare and Institutions
- 2 Code is amended and renumbered to read:
- 3 305.6.—(a)—A peace officer may not, without a warrant, take
- 4 into temporary custody a minor who is in a hospital if both of the
- 5 following conditions exist:
- 6 (1)—The minor is a newborn who tested positive for illegal drugs
- 7 or whose birth mother tested positive for illegal drugs.
- 8 (2)—The minor is the subject of a petition for adoption.
- 9 (b)—The prospective adoptive parents or their representative
- 10 shall, within 10 calendar days of the release of the minor from the
- 11 hospital into their custody, provide a copy of the filed petition for
- 12 adoption to the local child protective services agency.

1     305.6. (a) Any peace officer may, without a warrant, take into  
2 temporary custody a minor who is in a hospital if the release of the  
3 minor to a prospective adoptive parent poses an immediate danger  
4 to the minor's health or safety.

5     (b) (1) Notwithstanding subdivision (a) and Section 305, a  
6 peace officer may not, without a warrant, take into temporary  
7 custody a minor who is in a hospital if all of the following  
8 conditions exist:

9     (A) The minor is a newborn who tested positive for illegal drugs  
10 or whose birth mother tested positive for illegal drugs.

11     (B) The minor is the subject of a petition for adoption and a  
12 Health Facility Minor Release Report, prescribed by the  
13 department, has been signed by the placing birth parent or birth  
14 parents and the adoptive parent or adoptive parents.

15     (C) The release of the minor to a prospective adoptive parent  
16 or parents does not pose an immediate danger to the minor.  
17 Nothing in this section is intended to create a duty that requires law  
18 enforcement to investigate the adoptive parents.

19     (2) The prospective adoptive parents or their representative  
20 shall provide a copy of one of the following to the local child  
21 protective services agency or to the peace officer who is at the  
22 hospital to take the minor into temporary custody:

23     (A) The Health Facility Minor Release Report prescribed by  
24 the department and signed by the placing birth parent or birth  
25 parents and the prospective adoptive parent or parents.

26     (B) A copy of the adoption placement agreement signed by the  
27 placing birth parent or birth parents and the prospective adoptive  
28 parent or parents.

29     (C) A copy of the agency relinquishment signed by the placing  
30 birth parent or birth parents.